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## **ENVIRONMENTAL PROTECTION AGENCY**

**[FRL-9915-13-Region 10]**

### **Re-Proposal of an NPDES General Permit for Oil and Gas Geotechnical Surveying and Related Activities in Federal Waters of the Beaufort and Chukchi Seas**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of re-proposal of general permit.

**SUMMARY:** Environmental Protection Agency Region 10 (EPA) re-proposes a National Pollutant Discharge Elimination System (NPDES) General Permit for Oil and Gas Geotechnical Surveying and Related Activities in Federal Waters of the Beaufort and Chukchi Seas (Permit No. AKG-28-4300). On November 22, 2013, EPA released a draft NPDES general permit for oil and gas geotechnical surveys and related activities in federal waters of the Beaufort and Chukchi Seas for public review. The public comment period closed on February 19, 2014. Based on the comments received, EPA has made revisions to the draft Geotechnical General Permit and re-proposes a revised draft for public review accompanied by a Fact Sheet describing the revisions and a revised Ocean Discharge Criteria Evaluation.

EPA seeks public comment only on the following proposed changes: (1) Inclusion of seasonal prohibitions on wastewater discharges specific to the 3-25 mile lease deferral area in the Chukchi Sea; (2) Clarification of drilling fluid testing requirements (Discharge 001); (3) Clarification of Environmental Monitoring Program requirements and inclusion of language regarding pre-existing baseline data; (4) Revision of sampling frequencies for fecal coliform and total residual chlorine (Sanitary Wastewater, Discharge 003); and (5) Clarification of Notice of Intent submission requirements.

As proposed, the Geotechnical General Permit authorizes twelve types of discharges from facilities engaged in oil and gas geotechnical surveys to evaluate the subsurface characteristics of the seafloor and related activities in federal waters of the Beaufort and Chukchi Seas.

Geotechnical borings are collected to assess the structural properties of subsurface soil conditions for potential placement of oil and gas installations, which may include production and drilling platforms, ice islands, anchor structures for floating exploration drilling vessels, and potential buried pipeline corridors. Geotechnical surveys result in a disturbance of the seafloor and produce discharges consisting of soil, rock and cuttings materials, in addition to facility-specific waste streams authorized under this general permit. Geotechnical related activities also result in a disturbance of the seafloor and produce similar discharges. These activities may include feasibility testing of equipment that disturbs the seafloor, and testing and evaluation of trenching technologies.

**DATES:** Comments. The public comment period for the re-proposed Geotechnical General Permit will be from the date of publication of this document until **September 15, 2014**.

Comments must be received or post-marked by no later than midnight Pacific Standard Time on **September 15, 2014**. EPA will only consider comments on the re-proposed permit provisions. Comments submitted previously on the initial draft Geotechnical General Permit need not be resubmitted; comments addressing permit provisions or issues beyond the scope of this re-proposal will not be considered.

**ADDRESSES:** EPA will consider comments on the re-proposed permit provisions before making its final decision. You may submit comments by any of the following methods.

Mail: Send paper comments to Erin Seyfried, Office of Water and Watersheds, Mail Stop OWW-130, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101-3140.

E-mail: Send electronic comments to [R10geotechpermit@epa.gov](mailto:R10geotechpermit@epa.gov).

Fax: Fax comments to the attention of Erin Seyfried at (206) 553-0165.

Hand Delivery/Courier: Deliver comments to Erin Seyfried, Office of Water and Watersheds, Mail Stop OWW-130, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101-3140. Call (206) 553-0523 before delivery to verify business hours.

Viewing and/or Obtaining Copies of Documents. A copy of the draft Geotechnical General Permit and the Fact Sheet, which explains the proposal in detail, may be obtained by contacting EPA at 1 (800) 424-4372. Copies of the documents are also available for viewing and downloading at:

<http://yosemite.epa.gov/r10/water.nsf/npdes+permits/DraftPermitsAK>

<http://yosemite.epa.gov/r10/water.nsf/npdes+permits/arctic-gp>

See SUPPLEMENTARY INFORMATION for other document viewing locations.

**FOR FURTHER INFORMATION CONTACT:** Erin Seyfried, Office of Water and Watersheds, U.S. Environmental Protection Agency, Region 10, Mail Stop OWW-130, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101-3140, (206) 553-1448, [seyfried.erin@epa.gov](mailto:seyfried.erin@epa.gov).

**SUPPLEMENTARY INFORMATION:** On November 22, 2013, EPA issued a draft Geotechnical General Permit for public review, and established a comment deadline of January 27, 2014 (78 FR 70042). In response to requests for an extension of the deadline from the Alaska Eskimo Whaling Commission and the Inupiat Community of the Arctic Slope, EPA extended the comment period for an additional 23 days, from January 27, 2014 to February 19, 2014 (79 FR 4344).

Based on the comments received during the public review of the draft Geotechnical General Permit, EPA determined that certain permit provisions warranted further consideration and

notified interested parties of this determination on March 21, 2014. To further that process, EPA met with several commenters to clarify certain technical issues and obtain additional information. The public comments and subsequent information resulted in EPA revising several permit provisions, as described in further in the Fact Sheet.

Document Viewing Locations. The re-proposed Geotechnical General Permit and Fact Sheet may also be viewed at the following locations:

- (1) EPA Region 10 Library, Park Place Building, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101; (206) 553-1289.
- (2) EPA Region 10, Alaska Operations Office, 222 W 7<sup>th</sup> Avenue, #19, Room 537, Anchorage, AK 99513; (907) 271-5083.
- (3) Z. J. Loussac Public Library, 3600 Denali Street, Anchorage, AK 99503; (907) 343-2975.
- (4) North Slope Borough School District Library/Media Center, Pouch 169, 829 Aivak Street, Barrow, AK 99723; (907) 852-5311.

EPA's current administrative record for the draft Geotechnical General Permit is available for review at the EPA Region 10 Office, Park Place Building, 1200 6<sup>th</sup> Avenue, Suite 900, Seattle, WA 98101, between 9:00 a.m. and 4:00 p.m., Monday through Friday. Contact Erin Seyfried at [seyfried.erin@epa.gov](mailto:seyfried.erin@epa.gov) or (206) 553-1448.

Oil Spill Requirements. Section 311 of the Act, 33 U.S.C. 1321, prohibits the discharge of oil and hazardous materials in harmful quantities. Discharges authorized under the Geotechnical General Permit are excluded from the provisions of CWA section 311, 33 U.S.C. 1321.

However, the Geotechnical General Permit will not preclude the institution of legal action, or relieve the permittees from any responsibilities, liabilities, or penalties for other unauthorized discharges of oil and hazardous materials, which are covered by section 311.

Endangered Species Act. Section 7 of the Endangered Species Act , 16 U.S.C. 1531-1544, requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) if their actions have the potential to either beneficially or adversely affect any threatened or endangered species. EPA analyzed the discharges proposed to be authorized by the draft Geotechnical General Permit, and their potential to adversely affect any of the threatened or endangered species or their designated critical habitat areas in the vicinity of the discharges in a Biological Evaluation dated December 2013. EPA completed a supplemental analysis evaluating the effects of interrelated and interdependent actions on the Pacific walrus on February 11, 2014. On January 31 and March 19, 2014, EPA received letters of concurrence from the USFWS and NMFS, respectively, agreeing with EPA's determinations of effects. On March 13, 2014, in response to EPA's request for a conference on the Pacific walrus, the USFWS confirmed that the proposed permit action would not jeopardize the continued existence of this species. EPA has reviewed the re-proposed draft permit and determined that the proposed changes would not alter the original conclusions that the discharges may affect, but are not likely to adversely affect listed, proposed, and candidate species or their designated critical habitat areas. The Fact Sheet, the re-proposed draft Geotechnical General Permit, and the revised Ocean Discharge Criteria Evaluation will be sent to NMFS and the USFWS for review during the public comment period.

Essential Fish Habitat. The Magnuson-Stevens Fishery Conservation and Management Act requires EPA to consult with NMFS when a proposed permit action has the potential to adversely affect Essential Fish Habitat (EFH). EPA's EFH assessment is included as

Appendix A to the BE. The EFH assessment concluded that the discharges authorized by the draft Geotechnical General Permit will not adversely affect EFH. EPA has also concluded that the re-proposed permit changes will not adversely affect EFH.

Coastal Zone Management Act. As of July 1, 2011, there is no longer a Coastal Zone Management Act (CZMA) program in Alaska. Consequently, federal agencies are no longer required to provide the State of Alaska with CZMA consistency determinations.

Executive Order 12866. The Office of Management and Budget exempts this action from the review requirements of Executive Order 12866 pursuant to section 6 of that order.

Paperwork Reduction Act. EPA has reviewed the requirements imposed on regulated facilities in the Geotechnical General Permit and finds them consistent with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Regulatory Flexibility Act. Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 et seq., a federal agency must prepare an initial regulatory flexibility analysis “for any proposed rule” for which the agency “is required by section 553 of the Administrative Procedure Act (APA), or any other law, to publish general notice of proposed rulemaking.” The RFA exempts from this requirement any rule that the issuing agency certifies “will not, if promulgated, have a significant economic impact on a substantial number of small entities.” EPA has concluded that NPDES general permits are permits, not rulemakings, under the APA and thus not subject to APA rulemaking requirements or the RFA. Notwithstanding that general permits are not subject to the RFA, EPA has determined that the Geotechnical General Permit will not have a significant impact on a substantial number of small entities. This determination is based on the fact that the regulated companies are not classified as small businesses under the Small

Business Administration regulations established at 49 FR 5023 et seq. (February 9, 1984).

These facilities are classified as Major Group 13 – Oil as Gas Extraction SIC 1311 Crude Petroleum and Natural Gas.

Authority: This action is taken under the authority of section 402 of the Clean Water Act as amended, 42 U.S.C. 1342. I hereby provide public notice of the revised draft Geotechnical General Permit in accordance with 40 CFR 124.10.

Dated: August 5, 2014.

Christine Psyk,  
Associate Director,  
Office of Water and Watersheds,  
Region 10.

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